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September 12, 1997

VIA HAND DELIVERY

Mr. K. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Re: Docket No. 97-00888

Dear Mr. Waddell:

Enclosed please find the original and thirteen copies of a Motion being filed on behalf of the Coalition of Small LECs and Cooperatives for designation as Eligible Telecommunication Carriers. We would appreciate it if you would file this Motion and call it to the attention of the Directors for their action.

If you have any question, do not hesitate to let me know.

With kindest regards, I remain

Very truly yours,



T. G. Pappas

TGP/bfs:550322

cc: Dennis McNamee, Esq. (w/enclosures)
Counsel on Service List
Each Member of the Coalition of Small LECs and
Cooperatives
Thomas J. Moorman, Esq.

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

In Re:

UNIVERSAL SERVICE
GENERIC CONTESTED CASE

)
) Docket No.
) 97-00888
)

MOTION OF THE
COALITION OF SMALL LECs AND COOPERATIVES FOR
DESIGNATION AS ELIGIBLE TELECOMMUNICATIONS CARRIERS

Comes now the Coalition of Small LECs and Cooperatives ("Coalition"),¹ parties to this cause, and in order to comply with Section 214(e) of the 1996 Act² and Sections 54.201-207 of the Rules³ of the Federal Communications Commission ("FCC"), hereby files this motion respectfully requesting that the Tennessee Regulatory Authority ("TRA") designate each Coalition member identified in Attachment A the Eligible Telecommunications Carrier ("ETC") within its respective incumbent LEC service area.⁴ Each Coalition member is a recipient of cost recovery from interstate mechanisms established to foster universal service,⁵ and the

^{1/} Each member of the Coalition identified in Attachment A hereto is an incumbent local exchange carrier ("LEC"). Likewise, each Coalition member is considered a "rural telephone company" under the Telecommunications Act of 1996 (the "1996 Act"), Pub. L. No. 104-104, 110 Stat. 56 (1996), because each "provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;" or "provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines;" or "has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment" of the 1996 Act. 47 U.S.C. §§ 153(37)(B) - (D).

^{2/} See 47 U.S.C. § 214(e) ("Provision of Universal Service").

^{3/} 47 C.F.R. §§ 54.201-207.

^{4/} As rural LECs, the incumbent LEC service area is each company's "study area." See 47 U.S.C. § 214(e)(5). See also 47 C.F.R. § 54.207.

^{5/} The FCC's recent actions regarding universal service

customers that each serves are the beneficiaries of this universal service cost recovery. If the existing interstate universal service cost recovery sources were to end abruptly, the Coalition members (and the customers they serve) would face unnecessary disruption of this cost recovery, potential hardship, increased pressures on state universal service funds, and, ultimately, the possibility of rate increases. The Coalition members request that the TRA act upon this matter expeditiously.⁶ In support thereof, the following is shown:

1. Beginning January 1, 1998, each Coalition member will be qualified to receive recovery from the Interstate Universal Services Mechanisms only if it has been designated by a state regulatory commission as an ETC.⁷ Accordingly, the Coalition

prescribed a new set of universal service rules designed, in part, to yield approximately the same level of cost recovery for eligible LECs as that received today. Specifically, the existing high loop cost recovery support plan (see 47 C.F.R. Part 36, Subpart F - Universal Service Fund), interstate cost recovery of central office switching equipment owned by smaller LECs (see 47 C.F.R. §§ 36.125 and 54.301 (known as interstate "weighted dialed equipment minutes" or "weighted DEM") and Long Term Support (see 47 C.F.R. § 54.303) have now been restated in the FCC's rules. Consistent with the requirements of the 1996 Act, the FCC has transferred to the new reconstituted universal service fund the cost recovery previously reflected through these interstate mechanisms. All of these cost recovery mechanisms are referred collectively hereafter as the "Interstate Universal Service Mechanisms."

^{6/} Expeditious action also will enable the Coalition members to comply with any notification requirement that may be established by the interim universal service administrator and will assist each Coalition member in its financial planning for the upcoming periods.

^{7/} 47 C.F.R. § 54.201(a)(1). In addition, only ETCs

respectfully requests that the TRA, by order, designate each member company as the ETC within its respective incumbent LEC service area. Such action is entirely consistent with both the 1996 Act and the public interest in Tennessee.

2. The Coalition members provide local exchange and exchange access services in predominantly rural and higher-cost-to-serve areas of Tennessee. These companies are integral to the achievement of universally available telecommunications services in Tennessee. Their commitment to the provision of reasonably priced services is well known. Moreover, in their respective incumbent LEC service areas, the Coalition members effectively provide ubiquitous telecommunications services to all who request service.

As such, each of the Coalition members is effectively the "carrier of last resort" in its service area.

3. Absent TRA action designating these companies as ETCs, the continuation of uninterrupted interstate cost recovery support will end December 31, 1997 in light of the FCC's requirements. Expeditious action will ensure that the Coalition members can comply with any notification requirement that may be required to be made to the interim universal service administrator, as well as assist these companies in their financial planning for the coming periods. In the absence of expeditious action, the public policy goal of assuring that the Coalition members' customers continue to

designated under the these rules will be allowed to receive cost recovery support (or net support against funding obligations) pursuant to the health care provisions of the 1996 Act and the FCC's rules. See 47 C.F.R. § 54.201(a)(2).

receive the benefits of reasonable basic rates and quality services could be jeopardized. Accordingly, expeditious TRA action is required by the public interest in order to ensure recovery from the Interstate Universal Service Mechanisms and the resulting benefits from these cost recovery programs are maintained in Tennessee.

4. In order to be designated as an ETC, the FCC's rules require that a carrier must publicize and offer the services supported by the federal universal service mechanisms. As demonstrated below, the Coalition members satisfy these requirements (or qualify for waiver pursuant to FCC rules) and should be granted ETC status.

5. Under applicable federal rules, an ETC must offer as of January 1, 1998, the following services:

- 1) voice grade access to the public switched network;
- 2) access to free of charge "local usage" defined as an amount of minutes of use of exchange service;
- 3) dual tone multi-frequency signaling or its functional equivalent;
- 4) single-party service or its functional equivalent;
- 5) access to emergency services;
- 6) access to operator services;
- 7) access to interexchange service;
- 8) access to directory assistance; and
- 9) toll limitation services for qualifying low-income consumers.⁸

⁸/ 47 C.F.R. § 54.101(a)(1). The Coalition notes that each

A qualified ETC must offer these services either using its own facilities or a combination of its own facilities and the resold services of another facilities-based carrier.⁹ Further, an ETC must advertise the availability of, and the prevailing prices for, the list of universal services throughout the area in which it has been designated an ETC.¹⁰

6. With respect to the service provision requirements, the Coalition members provide their services utilizing their own facilities-based networks, or by combining their respective network capabilities with the resold services of other facilities-based carriers. Regarding the requirement that ETCs advertise the availability of the list of universal services, the Coalition members submit that, as current incumbent LECs, each utilizes standard customer notification and public notice procedures (e.g., directory information), that satisfy this requirement without further action. The Coalition members currently provide customer notification and marketing of their incumbent LECs' services consistent with the intended scope of the advertising requirement.¹¹

member will comply with the Lifeline/Link-up filing requirements contained in the FCC's rules.

⁹/ 47 C.F.R. § 54.201(d)(1). The FCC's rules do not, however, provide cost recovery support to carriers for those services that are resold.

¹⁰/ See 47 C.F.R. § 54.201(d)(2).

¹¹/ State commissions are able to establish guidelines that

7. With respect to the service offering requirements, each Coalition member offers the services designated for support as listed in § 54.101(a), with the exception of 911/enhanced 911 ("E911") and toll limitation services, as discussed below. However, the FCC's rules specifically allow that LECs can be granted additional time to provide these supported services.¹²

8. With regard to the requirement that ETCs must offer access to 911 or E911, this requirement only applies "to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems."¹³ Therefore, the special provision allowing additional time to upgrade networks related to access to 911/E911 services need only be granted where a local government has implemented 911/E911 but the LEC that serves that local area is not yet capable of providing 911/E911 access to callers.

9. The Coalition members stand ready to work with their local governments and the TRA to ensure the availability of these

may be needed to govern "advertising the availability of services." Universal Service Order at para. 148. The FCC envisions that a State will monitor the "effectiveness of carriers' advertising" as a "corollary" to its obligation to designate ETCs. Id.

¹²/ Where "exceptional circumstances" exist, the TRA may grant an extension of time to enable a Coalition member "to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation" for the time that the TRA determines "exceptional circumstances exist" and "deems necessary for that eligible telecommunications carrier to complete network upgrades." 47 C.F.R. § 54.101(c).

¹³/ 47 C.F.R. § 54.101(a)(5).

emergency services wherever requested. Accordingly, the Coalition members request that the TRA grant additional time on an "as-needed" basis in recognition that the availability of 911 and E911 services ultimately rests with the appropriate local governments. Denying interstate cost recovery support to a Coalition member that qualifies as an ETC for universal service support could potentially undermine the ability of that company to continue to undertake the network upgrades necessary to provide emergency services.

10. With respect to toll limitation services, the Coalition members submit that virtually no LEC in the nation is capable of providing this service as the FCC has defined it.¹⁴ Specifically, the "toll control" requirement was apparently added by the FCC at the final stage of the federal rulemaking without much, if any, comment by LECs. Such service would require real-time capability to record and rate every call instantaneously as the caller attempts to make a toll call. The ability to provide this service also assumes that LECs will be able to differentiate between toll calls and other types of calls. The Coalition members are aware that this misunderstanding regarding rational expectations of LEC capabilities has already been explained to FCC staff, and that the

¹⁴/ The FCC defines toll limitation as "both toll blocking and toll control." 47 C.F.R. § 54.400(a)(4). Toll blocking is "a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel." 47 C.F.R. § 54.400(a)(2). Toll control is defined as "a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle." 47 C.F.R. § 54.400(a)(3).

issue will likely be reevaluated in anticipated FCC reconsideration orders.

11. The Coalition members are prepared to offer toll blocking. They are not, however, prepared to offer toll control for the reasons stated above. Given that the matter of toll control is likely to receive reconsideration and that the TRA has been given the flexibility within the FCC's "additional time" rules to address this requirement specifically, the Coalition members respectfully request that the TRA grant a blanket waiver with respect to the offering of the "toll control" requirement until such time as the FCC acts upon reconsideration requests of its decision to require toll control. Such action will ensure that the availability of interstate universal service cost recovery support for the Coalition members is not placed in jeopardy.

12. As demonstrated above, the Coalition members meet the eligibility requirements associated with being an ETC. Moreover, for those services which the Coalition members would otherwise be required to offer as an ETC, exceptional circumstances warrant a waiver of the requirement to provide such services for the time periods requested. Accordingly, the Coalition members respectfully submit that the practical approach offered in support of the time periods requested both serves the public interest and ensures that

resources are committed to the provision of universal service rather than to unnecessary administrative processes.


CONCLUSION


For the foregoing reasons, the Coalition respectfully moves that the TRA designate each Coalition member as the ETC within its respective incumbent LEC service area. An expedited grant of this motion will facilitate the planning needs of these companies and will ensure the uninterrupted continuation of interstate cost recovery.

Respectfully submitted,

The Coalition of
Small LECs and Cooperatives

By:


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Its Counsel

Attachment A

Member Companies of the Coalition of Small
Local Exchange Carriers and Cooperatives

Ardmore Telephone Company
Ben Lomand Telephone Co-Op
Bledsoe Telephone Cooperative, Inc.
Century Telephone of Adamsville
Century Telephone of Claiborne
Century Telephone of Ooltewah-Collegedale, Inc.
Concord Telephone Exchange, Inc.
Crockett Telephone Company, Inc.
DeKalb Telephone Cooperative, Inc.
Highland Telephone Cooperative, Inc.
Humphreys County Telephone Company
Loretto Telephone Company
Millington Telephone Company
North Central Telephone Cooperative, Inc.
Peoples Telephone Company, Inc.
Tellico Telephone Company, Inc.
Tennessee Telephone Company
Twin Lakes Telephone Cooperative, Inc.
United Telephone Company
West Kentucky Cooperative, Inc.
West Tennessee Telephone Company, Inc.
Yorkville Telephone Cooperative, Inc.

DOCKET NO. 97-00888

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been mailed,
U. S. mail, postage prepaid, to the following persons, this the 17th day of October, 1997.

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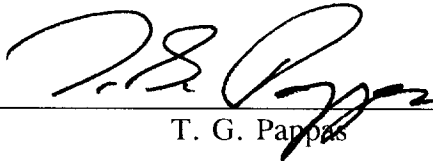
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